

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE AGENCY ACTION NO. 2009-AH-106**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

FINAL ORDER

MARK MERKHOFFER

RESPONDENT

STATEMENT OF FACTS

1. DFI is responsible for regulating and licensing mortgage loan companies and mortgage loan brokers doing business in Kentucky in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act (the "Act").

2. Pursuant to the Act, DFI conducted an examination of RT Mortgage Corporation on March 19, 2009, to determine whether the activities of RT Mortgage Corporation were in compliance with applicable laws and regulations; whether the practices and policies of RT Mortgage Corporation had a potentially adverse impact on prospective borrowers; and whether the business was being operated efficiently, fairly, and in the public interest.

3. During the examination, DFI discovered that Respondent, Mark Merkhofer ("Merkhofer") acted as a mortgage loan originator while employed by RT Mortgage Corporation by taking a loan application on a Kentucky property in March 2008 even though Merkhofer was not registered to act as a mortgage loan originator in Kentucky.

4. On December 15, 2009, DFI filed an Administrative Complaint against Respondent seeking the imposition of one thousand dollars \$1,000.00 in fines for Merkhofer's violations of KRS 286.8-030 and KRS 286.8-255(1).

5. Respondent was served with a copy of the Administrative Complaint, via certified mail return receipt requested on December 19, 2009. Respondent failed to respond to the Administrative Complaint and therefore no hearing was requested in this matter.

STATUTORY AUTHORITY

1. Pursuant to KRS 286.8-030(1)(c), "it is unlawful for any natural person to transact business in Kentucky, either directly or indirectly, as a mortgage loan originator or mortgage loan processor, unless otherwise exempted, if the mortgage loan originator or mortgage loan processor is not registered in accordance with KRS 286.8-255."

2. Pursuant to KRS 298.8-255(1), "no natural person shall transact business in Kentucky, either directly or indirectly, as a mortgage loan originator or mortgage loan processor unless such mortgage loan originator or mortgage loan processor is registered with the office and has been issued a current certificate of registration by the office, complies with all applicable requirements of this subtitle, and maintains a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry."

3. Pursuant to KRS 286.8-046(1), the Executive Director may assess a fine of not less than one thousand dollars (\$1,000) nor more than twenty-five thousand dollars (\$25,000) per violation, "plus the state's costs and expenses for the examination, investigation, and prosecution of the matter, including reasonable attorney's fees and

court costs” against any person that violates any provision of the Act or accompanying regulations.

CONCLUSIONS

Based on the foregoing, the Commissioner determines:

1. Respondent violated KRS 286.8-030 and KRS 286.8-255 by acting as a mortgage loan originator without being properly registered.

2. Despite being properly served pursuant to KRS 13B-050(2) with an Administrative Complaint to the last known address of Respondent on December 19, 2009, Respondent failed to respond to the Administrative Complaint or request a hearing within twenty (20) days of service of the Complaint as required by KRS 286.8-044. Thus, no hearing was held or deemed necessary in this matter.

ORDER

THEREFORE, based upon the foregoing statement of facts, statutory authority, and conclusions, the Commissioner **HEREBY ORDERS**:

1. Respondent, Mark Merkhofer, shall pay a fine in the amount of one thousand dollars (\$1,000.00) for violations of the Act detailed herein. Mark Merkhofer shall pay the fine in the form of a certified check or money order made payable to “Kentucky State Treasurer” and delivered to the Department of Financial Institutions, Attn: Simon Berry, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601 within ten (10) days of the effective date of this Order;

2. Respondent, Mark Merkhofer, shall comply with all requirements for licensure and registration set forth in KRS 286.8-255 and by executive order and

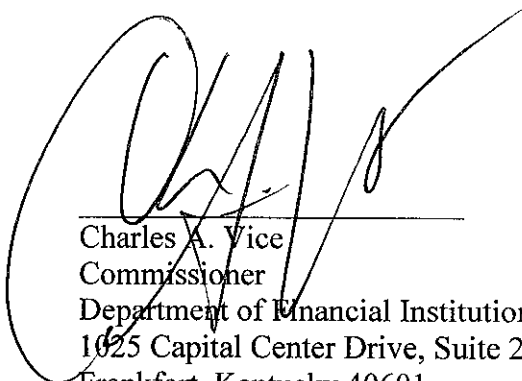
3. This is a **FINAL ORDER**.

This **ORDER** shall become effective upon completion of service as set forth in KRS 13B-050(2).

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 13B.140, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you choose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within thirty (30) days after entry of this Order.

IT IS SO ORDERED on this the 19th day of January 2010.



Charles A. Vice
Commissioner
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

Certificate of Service

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail, return receipt requested, on this the 26th day of January, 2010, to the following:

Mark Merkhofer
3533 Locust Lane
Cincinnati, OH 45238



Simon Berry
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
(502) 573-3390 Ext. 232
(502) 573-2183 (facsimile)